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May 3, 2017

**Via Certified Mail**

Managing Agent  
CMAT Concrete and Asphalt Recycling Yard  
3535 Perlman Drive  
Stockton, California 95206

California Materials, Inc.  
P.O. Box 32314  
Stockton, California 95213

**Via United States Mail**

Earl J Rogers II  
Registered Agent for California Materials, Inc.  
3526 Munford Avenue  
Stockton, California 95125

**Re: Notice of Violations and Intent to File Suit Under the Clean Water Act**

To the Above-Listed Recipients:

I am writing on behalf of California Sportfishing Protection Alliance ("CSPA") regarding violations of the Federal Clean Water Act<sup>1</sup> and California's Storm Water Permit<sup>2</sup> occurring at the CMAT Concrete and Asphalt Recycling Yard located at 3535 Perlman Drive Stockton, California 95213 (hereinafter the "CMAT Facility" or "Facility"). The purpose of this letter is to put the owner and operator of the CMAT Facility on notice of the violations of the Storm Water Permit that have occurred, and continue to occur, at the Facility including, but not limited to, the discharges of polluted storm water and non-storm water from the Facility into local waterways. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, the owner and/or operator of the Facility is liable for violations of the Storm Water Permit and the Clean Water Act.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C.

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<sup>1</sup> Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*

<sup>2</sup> National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, Order No. 97-03-DWQ, as amended by Order No. 2014-0057-DWQ.

§ 1365(a), a citizen must give notice of his/her intention to sue. Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency (“EPA”), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the State in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2. This notice letter (“Notice Letter”) is being sent to you as the CMAT Facility owner and/or operator, or as the registered agent for this entity. This Notice Letter is issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act to inform the Facility owner and/or operator that after the expiration of sixty (60) days from the date of this letter, we intend to file an enforcement action in federal court for violations of the Storm Water Permit and the Clean Water Act at the Facility.

## **I. BACKGROUND**

### **A. California Sportfishing Protection Alliance.**

CSPA is a 501(c)(3) non-profit public benefit conservation and research organization. CSPA was established in 1983 for the purpose of conserving, restoring, and enhancing the state’s water quality, wildlife, fishery resources, aquatic ecosystems, and associated riparian habitats. CSPA accomplishes its mission by actively seeking federal, state, and local agency implementation of environmental regulations and statutes and routinely participates in administrative, legislative, and judicial proceedings. When necessary, CSPA directly initiates enforcement actions on behalf of itself and its members to protect public trust resources. CSPA’s office is located at 3536 Rainier Avenue, Stockton, California 95204.

The CMAT Facility has discharged, and continues to discharge, polluted storm water and non-storm water to Duck Creek, which flows into Walker Slough, which discharges to French Camp Slough, which flows to the San Joaquin River, and then to the Sacramento-San Joaquin River Delta (“Delta”) (collectively “Receiving Waters”). The Facility’s discharge of pollutants degrades water quality and harm aquatic life in the Receiving Waters. Members of CSPA live, work, and/or recreate near the Receiving Waters. For example, CSPA members use and enjoy the Receiving Waters for fishing, boating, swimming, hiking, biking, bird watching, picnicking, viewing wildlife, and/or engaging in scientific study. The unlawful discharge of pollutants from the CMAT Facility impairs each of these uses. Further, the Facility’s discharges of polluted storm water and non-storm water are ongoing and continuous. As a result, the interests of CSPA’s members have been, are being, and will continue to be adversely affected by the failure of the Facility owner and/or operator to comply with the Storm Water Permit and the Clean Water Act.

### **B. The Owner and/or Operator of the CMAT Facility.**

Information available to CSPA indicates that California Materials, Inc. is an active corporation registered to operate in California since 2008. Information available to CSPA indicates that California Materials, Inc. has been an owner and/or operator of the Facility since at least 2012. CSPA refers to California Materials, Inc. as the CMAT Facility Owner and/or Operator.

The Registered Agent for California Materials, Inc. is Earl J Rogers II located at 3526 Munford Avenue Stockton, California 95215.

**C. The CMAT Facility's Coverage Under the Storm Water Permit.**

Certain classified facilities that discharge storm water associated with industrial activity are required to apply for coverage under the Storm Water Permit by submitting a Notice of Intent ("NOI") to the State Water Resources Control Board ("State Board") to obtain Storm Water Permit coverage. Information available to CSPA indicates that the Facility has been covered under the Storm Water Permit since 2012. Information available to CSPA indicates that the CMAT Facility Owner and/or Operator submitted two (2) NOIs both dated August 17, 2015, which CSPA obtained from California's online Storm Water Multiple Application & Reporting Tracking System ("SMARTs") database. Both NOIs list the Facility Waste Discharge Identification ("WDID") number as 5S39I023512; the operator information as California Materials, Inc. at P.O. Box 32314; the Facility information as CMAT Conc Recycling Facility located at 3535 Perlman Drive, Stockton, California 95206; the size of the Facility and industrial area exposed to storm water at 3 acres; and the percent of the site that is impervious at 67. However, one NOI lists the Standard Industrial Classification ("SIC") code as 3271 (Concrete Block and Brick) and identifies the receiving water as the San Joaquin Delta; the second NOI lists the SIC code as 5093 (Scrap and Waste Material)<sup>3</sup> and identifies the receiving water as Duck Creek & French Camp Slough.

CSPA obtained the CMAT Facility Storm Water Pollution Prevention Plan, dated December 20, 2016 SWPPP, and signed on December 21, 2016, ("December 2016 SWPPP") from the SMARTs database. The December 2016 SWPPP states that the Facility is approximately four (4) acres<sup>4</sup> of an 18.51 acre site, and is owned and operated by California Materials, Inc.

**D. Storm Water Pollution and Its Impacts on the Sacramento-San Joaquin Delta Watershed.**

With every significant rainfall event, millions of gallons of polluted rainwater, originating from industrial facilities such as the CMAT Facility, pour into storm drains and surface waters in California. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. This discharge of pollutants, which includes discharges from industrial facilities, contributes to the impairment of downstream waters and aquatic dependent wildlife.

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<sup>3</sup>The Regional Board conducted an inspection of the Facility in March 2016 and informed the CMAT Owner and/or Operator that the 3271 SIC code does not accurately describe the industrial operations at the Facility and that the appropriate SIC code is 5093.

<sup>4</sup>CSPA notes the discrepancy between the Storm Water Permit coverage sought in the NOI (3 acres) and the area of industrial activities listed in the SWPPP (4 acres). CSPA puts the CMAT Facility Owner and/or Operator on notice that it may not have obtained Storm Water Permit coverage for all areas of regulated industrial activities at the Facility.

Polluted storm water discharges from industrial facilities like the CMAT Facility can carry pollutants such as total suspended solids (“TSS”), oil and grease (“O&G”), gas, diesel and other petroleum products, fuel additives, pH-affecting substances, chemical oxygen demand (“COD”), aluminum, iron, zinc, copper, and lead. Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and developmental or reproductive harm. Polluted storm water discharges to surface waters pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

The California Regional Water Quality Control Board, Central Valley Region (“Regional Board”) has issued its Water Quality Control Plan for the Sacramento and San Joaquin River Basins (“Basin Plan”). The Basin Plan identifies the “Beneficial Uses” of water bodies in the region. The Beneficial Uses for the waters that receive polluted storm water discharges from the CMAT Facility include: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Process Supply (PRO), Industrial Service Supply (IND), Navigation (NAV), Water Contact Recreation (REC-1), Non-contact Water Recreation (REC-2), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), Migration (MIGR), and Spawning, Reproduction, and/or Early Development (SPWN). *See* Basin Plan at Table II-1.

A water body is impaired pursuant to section 303(d) of the Clean Water Act, 33 U.S.C. § 1313(d), when its Beneficial Uses are not being achieved due to the presence of one or more pollutants. Duck Creek is impaired for chlorpyrifos, E-coli, enterococcus and mercury. Walker Slough is impaired for E-coli and enterococcus. French Camp Slough is impaired for chlorpyrifos, E-coli, enterococcus, diazinon and dissolved oxygen. Polluted storm water and non-storm water discharges from industrial facilities, such as the CMAT Facility, contribute to the further degradation of already impaired surface waters, including the Receiving Waters, and harm aquatic dependent wildlife.<sup>5</sup>

## **II. THE CMAT FACILITY AND RELATED DISCHARGE OF POLLUTANTS**

### **A. The CMAT Facility Industrial Activities and Associated Pollutants.**

The CMAT Facility is located 2 miles north of the Stockton Metropolitan Airport, and 400 feet east of Duck Creek. The Facility is bordered by Perlman Drive to the east, and a City of Stockton storm water retention basin is located along the western portion of the Facility.

According to Section 2.1.2 of the December 2016 SWPPP, industrial activities at the Facility include “all activities required to recycle clean, broken concrete and concrete building materials from demolition and construction contractors.” These operations include the receiving, sorting, processing and storing of raw materials and waste, which include asphalt concrete, Portland cement concrete, and other construction debris. The raw materials and debris is crushed and grinded, sorted into stockpiles and exported offsite. Information available to CSPA indicates that vehicle and equipment fueling, operation and maintenance are also conducted at the Facility.

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<sup>5</sup> 2012 Integrated Report – All Assessed Waters, *available at* [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2012.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml).

Hazardous material are also used and stored at the Facility. The industrial materials and pollutants present at the Facility include O&G, petroleum, sand, gravel, COD, mercury, N+N, cement, wood, metals such as lead, zinc, copper, aluminum and iron, petroleum products, oxygen-depleting chemicals, TSS, and pH-affecting substances.

Information available to CSPA indicates that these industrial activities and associated materials are exposed to storm water and each is a potential source of pollutants at the Facility. Information available to CSPA indicates that the industrial operations and associated material storage at the Facility are conducted outdoors without adequate cover or other effective best management practices (“BMPs”) to prevent pollutant sources from being exposed to storm water and/or non-storm water, and the subsequent discharge of polluted storm water and non-storm water from discharging from the Facility. BMPs are necessary to prevent the exposure of pollutants and pollutant sources to precipitation, and the subsequent discharge of polluted storm water from the Facility during rain events. Further, information available to CSPA indicates that the pollutants associated with the Facility’s industrial activities have been and continue to be tracked throughout the Facility including at the entrance and egress point at Perlman Drive. Pollutants accumulate at the storm water discharge points and drop inlets to the onsite storm drain system.

**B. Storm Water Flow and Discharges of Pollutants at the Facility.**

According to the December 2016 SWPPP, storm water at the Facility flows to the northeast towards onsite storm drain inlets, which enter the City of Stockton’s municipal separate storm sewer system (“MS4”), which the CMAT Facility Owner and/or Operator has identified as Drainage Area 1 (DA01). A berm along the northeast and northwest perimeter directs water to drain south towards the parking lot, which the CMAT Facility Owner and/or Operator has identified as Drainage Area 2 (DA02).

Section 5.5.5 of the December 2016 SWPPP states there are three (3) discharge locations at the Facility but Table 5.2 only identifies two (2) discharge locations, which are labeled as DL01 (drain inlet on Perlman Drive near site entrance) and DL02 (northwest corner).

Section 5.6.2 of the December 2016 SWPPP states that a “total of three discharge location(s) have been identified...for the collection of stormwater runoff samples,” but Table 5.4 identifies only two (2) storm water sampling locations, which are labeled as SL01 (Perlman Drive drain inlet south of the entrance) and SL02 (northwest corner of Facility). Information available to CSPA indicates that storm water and/or non-storm water discharges from the Facility driveway at Perlman Drive and flows to the City of Stockton’s MS4. Information available to CSPA indicates that storm water and/or non-storm water also discharges at the eastern edge of the Facility at or near the concrete washout area, which is identified on the December 2016 SWPPP Facility Site Map. According to the December 2016 SWPPP, storm water is also discharged at the northwest corner of the Facility.

The CMAT Facility Owner and/or Operator has not properly developed and/or implemented the required BMPs to address pollutant sources, prevent the exposure of pollutants



to storm water, and prevent the subsequent discharge of polluted storm water from the Facility during rain events. Consequently, during rain events, storm water carries pollutants from the Facility's uncovered and exposed areas of industrial activity into the Receiving Waters.

### **III. VIOLATIONS OF THE CLEAN WATER ACT AND THE STORM WATER PERMIT**

In California, any person who discharges storm water associated with industrial activity must comply with the terms of the Storm Water Permit in order to lawfully discharge pollutants. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1).

Between 1997 and June 30, 2015, the Storm Water Permit in effect was Order No. 97-03-DWQ, which CSPA refers to as the "1997 Permit." On July 1, 2015, pursuant to Order No. 2014-0057-DWQ the Storm Water Permit went into effect, which CSPA refers to as the "2015 Permit." As explained below, the 2015 Permit includes terms that are as stringent or more stringent than the 1997 Permit. Accordingly, the CMAT Facility Owner and/or Operator is liable for violations of the 1997 Permit and ongoing violations of the 2015 Permit, and civil penalties and injunctive relief are available remedies. *See Illinois v. Outboard Marine, Inc.*, 680 F.2d 473, 480-81 (7th Cir. 1982) (relief granted for violations of an expired permit); *Sierra Club v. Aluminum Co. of Am.*, 585 F. Supp. 842, 853-54 (N.D.N.Y. 1984) (holding that the Clean Water Act's legislative intent and public policy favor allowing penalties for violations of an expired permit); *Pub. Interest Research Group of N.J. v. Carter-Wallace, Inc.*, 684 F. Supp. 115, 121-22 (D.N.J. 1988) ("[I]mitations of an expired permit, when those limitations have been transferred unchanged to the newly issued permit, may be viewed as currently in effect"); *see also CSPA v. River City Waste Recyclers*, 2016 U.S. Dist. LEXIS 120186, at \*13-18 (E.D.Cal. Sep. 2, 2016).

#### **A. Discharges of Unauthorized Non-Storm Water from the CMAT Facility in Violation of the Storm Water Permit Discharge Prohibition.**

Except as authorized by Special Conditions D(1) of the 1997 Permit, Discharge Prohibition A(1) prohibits permittees from discharging materials other than storm water (non-storm water discharges) either directly or indirectly to waters of the United States. The 2015 Permit includes the same discharge prohibition. *See* 2015 Permit, Discharge Prohibition III(B). Unauthorized non-storm water discharges must be either eliminated or permitted by a separate NPDES permit. *See* 1997 Permit, Discharge Prohibition A(1); *see also* 2015 Permit, Discharge Prohibition III(B).

Information available to CSPA indicates that dust generating activities occur at the Facility including the crushing and grinding of concrete and other materials, and that the Facility utilizes a sprinkler system for dust suppressant during these activities. Information available to CSPA also indicates that vehicle and equipment washing and cleaning occurs at the Facility, and that the Facility handles liquid waste. Information available to CSPA indicates that the dust suppressant water, wash water and/or liquid waste discharge from the Facility as unauthorized non-storm water discharges due to inadequate BMP development and/or implementation

necessary to prevent these discharges. As described above, discharges to the drain inlets on and around the Facility lead to the City of Stockton's MS4.

In addition, the Regional Board conducted a storm water compliance inspection of the Facility on March 10, 2016 ("Inspection"), which resulted in a Notice of Violation ("NOV") being issued to the CMAT Facility Owner and/or Operator. The Regional Board observed non-storm water discharges during the Inspection and specifically reported that concrete trucks were being washed out and that the "wash water was not being contained and was observed flowing on the ground surface in the northwestern portion." During the Inspection, the Regional Board observed non-storm water discharge to the drain inlet in the northeast portion of the Facility.

CSPA puts the CMAT Facility Owner and/or Operator on notice that the Storm Water Discharge Prohibition is violated each time non-storm water is discharged from the Facility. *See* 1997 Permit, Discharge Prohibition D(1); *see also* 2015 Permit, Discharge Prohibition III(B). These discharge violations are ongoing and will continue until the CMAT Facility Owner and/or Operator develops and implements BMPs that prevent prohibited non-storm water discharges or obtains separate NPDES permit coverage. Each time the CMAT Facility Owner and/or Operator discharges prohibited non-storm water in violation of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The CMAT Facility Owner and/or Operator has been in violation since May 3, 2012, and CSPA will update the dates of violations when additional information and data become available. The CMAT Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 3, 2012.

**B. Discharges of Polluted Storm Water from the CMAT Facility in Violation of the Storm Water Permit Effluent Limitation.**

Effluent Limitation B(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve best available technology economically achievable ("BAT") for toxic pollutants<sup>6</sup> and best conventional pollutant control technology ("BCT") for conventional pollutants.<sup>7</sup> The 2015 Permit includes the same effluent limitation. *See* 2015 Permit, Effluent Limitation V(A).

Information available to CSPA, including its review of publicly available information and observations, indicates BMPs that achieve BAT/BCT have not been developed and/or implemented at the Facility. Analytical results of storm water sampling at the Facility further demonstrate that the CMAT Facility Owner and/or Operator has failed and continues to fail to implement BAT/BCT, as required. Specifically, Facility discharges have exceeded EPA Benchmarks for numerous pollutants since the CMAT Facility Owner and/or Operator obtained Storm Water Permit coverage for the Facility. EPA Benchmarks are relevant and objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT

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<sup>6</sup> Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

<sup>7</sup> Conventional pollutants are listed at 40 C.F.R. § 401.16 and include biological oxygen demand, total suspended solids, oil and grease, pH, and fecal coliform.

standards as required by the Storm Water Permit.<sup>8</sup> The table attached hereto as Exhibit 1 includes sample results of storm water discharges collected at the Facility. As documented in Exhibit 1, sampling at the Facility establishes the repeated and significant exceedances of EPA Benchmarks, which demonstrate that the Facility Owner and/or Operator has not developed and/or implemented BMPs at the Facility that achieve compliance with the BAT/BCT standards. *See* Exhibit 1.

In addition, the Regional Board's Inspection and NOV documented the CMAT Facility Owner and/or Operator's failure to develop and/or implement adequate BMPs. Specifically, the NOV documented the lack of BMPs to control pollutants being tracked throughout the Facility and offsite, to control and contain the concrete liquid waste handling, and to control the material storage. The Inspection also noted the failure of the CMAT Facility Owner and/or Operator to maintain and repair BMPs that are implemented at the Facility. The CMAT Facility Owner and/or Operator has failed and continues to fail to develop and/or implement BMPs to prevent the exposure of pollutants to storm water and to prevent discharges of polluted storm water from the Facility, in violation of the Storm Water Permit. *See* 1997 Permit, Effluent Limitation B(3) and 2015 Permit, Effluent Limitation V(A).

CSPA puts the CMAT Facility Owner and/or Operator on notice that the Storm Water Permit Effluent Limitation is violated each time storm water discharges from the Facility. *See e.g.*, Exhibit 2 (setting forth dates of significant rain events).<sup>9</sup> These discharge violations are ongoing and will continue each day the CMAT Facility Owner and/or Operator discharges polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Each time the CMAT Facility Owner and/or Operator discharges polluted storm water in violation of the Storm Water Permit Effluent Limitation is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The CMAT Facility Owner and/or Operator has been in violation since May 3, 2012, and CSPA will update the number and dates of violation when additional information and data becomes available. The CMAT Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 3, 2012.

Further, CSPA puts the CMAT Facility Owner and/or Operator on notice that the 2015 Permit Effluent Limitation V(A) is an independent requirement that must be complied with, and that carrying out the iterative process triggered by exceedances of the Numeric Action Levels ("NALs") listed at Table 2 of the 2015 Permit does not amount to compliance with Effluent Limitation V(A). Exceedances of the NALs demonstrate that a facility (such as the CMAT Facility) is among the worst performing facilities in the State. Moreover, the NALs do not represent technology-based criteria relevant to determining whether an industrial facility has

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<sup>8</sup> *See United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) Authorization to Discharge Under the National Pollutant Discharge Elimination System*, as modified effective February 26, 2009, Fact Sheet at 106; *see also*, 65 Federal Register 64839 (2000).

<sup>9</sup> Exhibit 2 sets forth dates of significant rain events as measured at the Stockton Airport rain gauge. A significant rain event is defined by EPA as a rainfall event generating 0.1 inches or more of rainfall, which generally results in measurable discharges at a typical industrial facility.



implemented BMPs that achieve BAT/BCT. Thus, even if the CMAT Facility Owner and/or Operator is engaged in the NAL iterative process and submitted an Exceedance Response Action Plan(s) under Section XII of the 2015 Permit, the violations of Effluent Limitation V(A) described in this Notice Letter are ongoing and continuous.

**C. Discharges of Polluted Storm Water from the CMAT Facility in Violation of the Storm Water Permit Receiving Water Limitations.**

Receiving Water Limitation C(1) of the 1997 Permit prohibits storm water discharges and authorized non-storm water discharges to surface water that adversely impact human health or the environment. The 2015 Permit includes the same receiving water limitation. *See* 2015 Permit, Receiving Water Limitation VI(B). Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of the Storm Water Permit Receiving Water Limitation. *See* 1997 Permit, Receiving Water Limitation C(1); 2015 Permit, Receiving Water Limitation VI(B).

Receiving Water Limitation C(2) of the 1997 Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of an applicable Water Quality Standard ("WQS").<sup>10</sup> The 2015 Permit includes the same receiving water limitation. *See* 2015 Permit, Receiving Water Limitation VI(A). Discharges that contain pollutants in excess of applicable WQS violate the Storm Water Permit Receiving Water Limitations. *See* 1997 Permit, Receiving Water Limitation C(2); 2015 Permit, Receiving Water Limitation VI(A).

Information available to CSPA indicates that the Facility's storm water discharges contain elevated concentrations of pollutants, including but not limited to copper, lead, aluminum, iron, and zinc. *See, e.g.,* Exhibit 1. These polluted discharges can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the Receiving Waters. Discharges of elevated concentrations of pollutants in the storm water from the Facility also adversely impact human health. These harmful discharges from the Facility are violations of the Storm Water Permit Receiving Water Limitation. *See* 1997 Permit, Receiving Water Limitation C(1); 2015 Permit, Receiving Water Limitation VI(B).

Information available to CSPA further indicates that the Facility's storm water discharges contain concentrations of pollutants that cause or contribute to an exceedance of applicable WQSS. *See, e.g.,* Exhibit 1. Storm water discharges from the Facility that cause or contribute to exceedances of WQSS are violations of the Storm Water Permit Receiving Water Limitation. *See* 1997 Permit, Receiving Water Limitation C(2); 2015 Permit, Receiving Water Limitation VI(A).

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<sup>10</sup> The Basin Plan designates Beneficial Uses for the Receiving Waters. Water quality standards are pollutant concentration levels determined by the state or federal agencies to be protective of designated Beneficial Uses. Discharges above water quality standards contribute to the impairment of Receiving Waters' Beneficial Uses. Applicable water quality standards include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR"), and water quality objectives in the Basin Plan. Industrial storm water discharges must strictly comply with water quality standards, including those criteria listed in the applicable basin plan. *See Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166-67 (9th Cir. 1999).

CSPA puts the CMAT Facility Owner and/or Operator on notice that Storm Water Permit Receiving Water Limitations are violated each time polluted storm water discharges from the Facility. *See, e.g.,* Exhibit 2. Each time discharges of storm water from the Facility adversely impact human health or the environment, it is a separate and distinct violation of Receiving Water Limitation C(1) of the 1997 Permit, Receiving Water Limitation VI(B) of the 2015 Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Each time discharges of storm water from the Facility cause or contribute to a violation of an applicable WQS, it is a separate and distinct violation of Receiving Water Limitation C(2) of the 1997 Permit, Receiving Water Limitation VI(A) of the 2015 Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). These discharge violations are ongoing and will continue every time contaminated storm water is discharged in violation of the Storm Water Permit Receiving Water Limitations. The CMAT Facility Owner and/or Operator has been in violation since May 3, 2012, and CSPA will update the dates of violation when additional information and data becomes available. The CMAT Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 3, 2012.

Further, CSPA puts the CMAT Facility Owner and/or Operator on notice that the Receiving Water Limitations are independent requirements that must be complied with, and that carrying out the iterative process triggered by exceedances of the NALs listed at Table 2 of the 2015 Permit does not amount to compliance with the Receiving Water Limitations. The NALs do not represent water quality based criteria relevant to determining whether an industrial facility has caused or contributed to an exceedance of a WQS, or is causing adverse impacts to human health or the environment. Thus, even if the CMAT Facility Owner and/or Operator is engaged in the NAL iterative process and submitted an Exceedance Response Action Plan(s) under Section XII of the 2015 Permit, the violations of the Receiving Water Limitations described in this Notice Letter are ongoing and continuous.

**D. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan.**

The Storm Water Permit requires permittees to develop and implement a Storm Water Pollution Prevention Plan prior to conducting industrial activities. A permittee has an ongoing obligation to revise the SWPPP as necessary to ensure compliance with the Storm Water Permit. The specific SWPPP requirements of the 1997 Permit and the 2015 Permit are set out below.

**1. 1997 Permit SWPPP Requirements.**

Section A(1) and Provision E(2) of the 1997 Permit require discharges to have developed and implemented a SWPPP prior to beginning industrial activities that meets all of the requirements of the 1997 Permit. The objectives of the 1997 Permit SWPPP requirements are to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Facility and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. *See*

1997 Permit, Section A(2). These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations.

To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9) of the 1997 Permit, and must be revised as necessary to ensure compliance with the Storm Water Permit. 1997 Permit, Sections A(9) and (10). Sections A(3) – A(10) of the 1997 Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, areas of actual and potential pollutant contact, areas of industrial activity, and other features of the facility and its industrial activities (*see* 1997 Permit, Section A(4)); a list of significant materials handled and stored at the site (*see* 1997 Permit, Section A(5)); a description of potential pollutant sources, including industrial processes, material handling and storage areas, dust and particulate generating activities, significant spills and leaks, non-storm water discharges and their sources, and locations where soil erosion may occur (*see* 1997 Permit, Section A(6)).

Sections A(7) and A(8) of the 1997 Permit require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

## **2. 2015 Permit SWPPP Requirements.**

As with the SWPPP requirements of the 1997 Permit, Sections X(A) - (H) of the 2015 Permit require dischargers to have developed and implemented a SWPPP that meets all of the requirements of the 2015 Permit. *See also* 2015 Permit, Appendix 1. The objective of the SWPPP requirements are still to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. *See* 2015 Permit, Section X(C).

The SWPPP must include, among other things and consistent with the 1997 Permit, a narrative description and summary of all industrial activity, potential sources of pollutants, and potential pollutants; a site map indicating the storm water conveyance system, points of discharge, direction of flow, areas of actual and potential pollutant contact, nearby water bodies, and pollutant control measures; a description of the BMPs developed and implemented to reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges necessary to comply with the Storm Water Permit; the identification of non-storm water discharges and the elimination of unauthorized non-storm water discharges; the location where significant materials are being shipped, stored, received, and handled, as well as the typical quantities of such materials and the frequency with which they are handled; a description of dust and particulate-generating activities; and the identification of individuals and their current responsibilities for developing and implementing the SWPPP. 2015 Permit, Section X(A)-(H).



Further, the 2015 Permit requires the discharger to evaluate the SWPPP on an annual basis and revise it as necessary to ensure compliance with the Storm Water Permit. 2015 Permit, Section X(A)-(B). Like the 1997 Permit, the 2015 Permit also requires that the discharger conduct an annual comprehensive site compliance evaluation that includes a review of all visual observation records, inspection reports and sampling and analysis results; a visual inspection of all potential pollutant sources for evidence of, or the potential for, pollutants entering the drainage system; a review and evaluation of all BMPs to determine whether the BMPs are adequate, properly implemented and maintained, or whether additional BMPs are needed; and a visual inspection of equipment needed to implement the SWPPP. 2015 Permit, Section X(B) and Section XV.

**3. The CMAT Facility Owner and/or Operator Has Violated and Continues to Violate the Storm Water Permit SWPPP Requirements.**

The CMAT Facility Owner and/or Operator has been and continues to conduct operations at the Facility with an inadequately developed and/or implemented SWPPP. For example, information available to CSPA indicates that the Facility site maps have never included all the information required by the Storm Water Permit, including, but not limited to, all drainage areas, all storm water discharge locations, all areas of industrial activity, the location of municipal storm drain inlets that may receive the Facility's discharges, nearby water bodies, and/or all soil erosion areas. In fact, the Regional Board's NOV documented the Site Map's failure to identify correct storm water discharge locations, yet the Site Map was not revised to identify all locations where storm water is discharged from the Facility.

The CMAT Facility Owner and/or Operator has also failed and continues to fail to develop and/or implement a SWPPP that contains BMPs to prevent the exposure of pollutants and pollutant sources to storm water and the subsequent discharge of polluted storm water from the Facility. For example, in addition to the December 2016 SWPPP, CSPA obtained the CMAT Facility June 24, 2015, Storm Water Pollution Prevention Plan ("2015 SWPPP"), and the May 6, 2016 Storm Water Pollution Prevention Plan ("May 2016 SWPPP") from the SMARTs database. Among other things, each of the SWPPPs fails to: identify all industrial material handled at the Facility, fails to identify all the industrial processes that occur at the Facility, fails to identify required BMPs, and fails to provide the required assessment and list of potential pollutants in storm water discharges. The SWPPP inadequacies are documented by the continuous and ongoing discharge of storm water containing pollutant levels that exceed EPA Benchmarks and applicable WQS. *See, e.g., Exhibit 1.*

The CMAT Facility Owner and/or Operator has also failed to revise the Facility's SWPPP to ensure compliance with the Storm Water Permit. Despite the significant concentrations of pollutants in the Facility's storm water discharges each year, information available to CSPA indicates that the SWPPP has not been revised to include additional BMPs to eliminate or reduce storm water pollutants, as required by the Storm Water Permit. For example, the SWPPP did not significantly change even after the Regional Board conducted its Inspection and issued an NOV for the CMAT Facility Owner and/or Operator's failure to develop and implement BMPs. The NOV required the CMAT Facility Owner and/or Operator to revise the

SWPPP and upload it to SMARTs by May 2, 2016. However, the May 2016 SWPPP submitted in response to the NOV still failed to include and address all of the deficiencies documented in the Regional Board's Inspection and NOV. In addition, despite non-storm water discharge observations during the Inspection, the May 2015 SWPPP fails to identify the Facility's non-storm water discharges and does not contain any BMPs to prevent non-storm water discharges.

Finally, the Facility's SWPPPs did not substantively changed after the Facility entered Level 1 status for discharging storm water with levels of pollutants that exceed the 2015 Permit's NALs.<sup>11</sup> The 2015 Permit requires revisions to SWPPPs to identify what BMPs will be improved, and/or if additional BMPs must be developed and implemented to prevent further exceedances of the NALs, or otherwise comply with the Storm Water Permit. *See* 2015 Permit, Section XII(C). The CMAT Facility May 2016 SWPPP (developed prior to the Facility entering Level 1 status) is essentially identical to the December 2016 SWPPP, which was submitted as a "revised" SWPPP after the Facility entered Level 1 status. For example, the December 2016 SWPPP was not revised to include additional BMPs, or to address the need for BMP repair and maintenance that was noted in the Inspection and NOV. In fact, the December 2016 SWPPP Amendment Log is blank indicating that the SWPPP was not amended or revised at all.

Accordingly, the CMAT Facility Owner and/or Operator has failed and continues to fail to adequately develop, implement, and/or revise a SWPPP, in violation of the Storm Water Permit SWPPP requirements. Every day the Facility operates with an inadequately developed and/or implemented SWPPP, or with an inadequately revised SWPPP, is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The CMAT Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit SWPPP requirements since at least May 3, 2012. These violations are ongoing, and CSPA will include additional violations when information becomes available. The CMAT Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 3, 2012.

**E. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program.**

The Storm Water Permit requires permittees to develop and implement a storm water monitoring and reporting program ("M&RP") prior to conducting industrial activities. A permittee has an ongoing obligation to revise the M&RP as necessary to ensure compliance with the Storm Water Permit. The specific M&RP requirements of the 1997 Permit and the 2015 Permit are set out below.

**1. 1997 Permit M&RP Requirements.**

Section B(1) and Provision E(3) of the 1997 Permit require facility operators to develop and implement an adequate M&RP prior to the commencement of industrial activities at a facility that meets all of the requirements of the Storm Water Permit. The primary objective of

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<sup>11</sup> An explanation of how a permittee enters Level 1 status is set forth below.

the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* 1997 Permit, Section B(2).

The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and must be evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *Id.* Sections B(3) – B(16) of the 1997 Permit set forth the M&RP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-storm water discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges from one (1) storm event per month during the Wet Season. Sections B(3) and B(4) further require dischargers to document the presence of any floating or suspended material, O&G, discolorations, turbidity, odor, and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-storm water discharges and to reduce or prevent pollutants from contacting non-storm water and storm water discharges. *See* 1997 Permit, Sections B(3) and B(4). Dischargers must revise the SWPPP in response to these observations to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *Id.*, Section B(4). Sections B(5) and B(7) of the 1997 Permit require dischargers to visually observe and collect samples of storm water from all locations where storm water is discharged.

Sections B(5) and B(7) of the 1997 Storm Water Permit require dischargers to visually observe and collect samples of storm water from all drainage areas and discharge locations where storm water is discharged. Under Section B(5) of the Storm Water Permit, a permittee is required to collect at least two (2) samples from each discharge location at the facility during the Wet Season. Storm water samples must be analyzed for TSS, pH, SC, total organic carbon or O&G, and other pollutants that are likely to be present in the facility's discharges in significant quantities. *See* Storm Water Permit, Section B(5)(c). The Storm Water Permit requires facilities classified as SIC code 5093, such as the CMAT Facility, to also analyze storm water samples for iron, lead, aluminum, zinc, and COD. *Id.*; *see also* 1997 Permit, Table D.

## **2. 2015 Permit M&RP Requirements.**

As with the 1997 M&RP requirements, Sections X(I) and XI(A)-XI(D) of the 2015 Permit require facility operators to develop and implement an adequate M&RP that meets all of the requirements of the 2015 Permit. The objective of the M&RP is still to detect and measure the concentrations of pollutants in a facility's discharge, and to ensure compliance with the 2015 Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* 2015 Permit, Section XI. An adequate M&RP ensures that BMPs are effectively reducing and/or eliminating pollutants at the facility, and is evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *See id.*

As an *increase* in observation frequency to the 1997 Permit, Section XI(A) of the 2015 Permit requires all visual observations at least once each month, and at the same time sampling



occurs at a discharge location. Observations must document the presence of any floating and suspended material, O&G, discolorations, turbidity, odor and the source of any pollutants. 2015 Permit, Section XI(A)(2). Dischargers must document and maintain records of observations, observation dates, locations observed, and responses taken to reduce or prevent pollutants in storm water discharges. 2015 Permit, Section XI(A)(3).

As an *increase* in frequency of monitoring requirements, Section XI(B)(1-5) of the 2015 Permit requires permittees, such as the CMAT Facility Owner and/or Operator, to collect storm water discharge samples from a qualifying storm event<sup>12</sup> as follows: 1) from each drainage area at all discharge locations, 2) from two (2) storm events within the first half of each Reporting Year<sup>13</sup> (July 1 to December 31), 3) from two (2) storm events within the second half of each Reporting Year (January 1 to June 30), and 4) within four (4) hours of the start of a discharge, or the start of facility operations if the qualifying storm event occurs within the previous twelve (12) hour period. The 2015 Permit also provides that permittees must submit all sampling and analytical results for all samples via SMARTs within 30 days of obtaining all results for each sampling event. 2015 Permit, Section XI(B)(11) (emphasis added).

The parameters to be analyzed are also consistent with the 1997 Permit, however, the 2015 Permit no longer requires SC to be analyzed. Specifically, Section XI(B)(6)(a)-(b) of the 2015 Permit requires permittees to analyze samples for TSS, O&G, and pH. Section XI(B)(6)(c)-(d) of the 2015 Permit requires permittees to analyze samples for pollutants associated with industrial activities. Table 1 of the 2015 Permit specifically requires SIC Code 5093 facilities, such as the CMAT Facility, to analyze for iron, lead, aluminum, zinc, and COD. Section XI(B)(6)(e) of the 2015 Permit also requires dischargers to analyze storm water samples for additional applicable industrial parameters related to receiving waters with a Clean Water Act Section 303(d) listed impairment(s), or approved Total Maximum Daily Loads.

### **3. The CMAT Facility Owner and/or Operator Has Violated and Continues to Violate the Storm Water Permit M&RP Requirements.**

The CMAT Facility Owner and/or Operator has been and continues to conduct operations at the Facility with an inadequately developed, implemented, and/or revised M&RP. Specifically, the CMAT Facility Owner and/or Operator has failed and continues to fail to collect storm water samples from all discharge locations, to analyze samples for all required parameters, and to conduct visual observations and monitoring as required by the Storm Water Permit.

First, the CMAT Facility Owner and/or Operator has failed and continues to fail to develop and/or implement an M&RP that requires storm water samples be collected from all discharge locations at the Facility. For example, information available to CSPA indicates that the CMAT Facility Owner and/or Operator has never collected samples from all three (3) of the discharge locations it has identified. The CMAT Facility Owner and/or Operator has also never

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<sup>12</sup> The 2015 Permit defines a qualifying storm event as one that produces a discharge for at least one drainage area, and is preceded by 48-hours with no discharge from any drainage areas. 2015 Permit, Section XI(B)(1).

<sup>13</sup> A Reporting Year replaced the term "Wet Season" from the 1997 Permit, and is defined as July 1 through June 30. 2015 Permit, Findings ¶ 62(b).

collected storm water samples from the discharge locations at the Facility driveway off of Perlman Drive. The CMAT Facility Owner and/or Operator's failure to identify all discharge locations as required by the Storm Water Permit has been documented by the Regional Board. Specifically, during the Inspection, the Regional Board reported that the identified sample in the parking area was not representative of the drainage area because there are seven (7) different storm drain inlets in the area. The Inspection also documented that the CMAT Owner and/or Operator did not collect samples from the northwest corner of the Facility, or from the identified discharge location along Perlman Drive. While Section B(7)(d) of the 1997 Permit and Section XI(C)(4) of the 2015 Permit allow permittees to reduce the number of locations to be sampled, information available to CSPA indicates that the CMAT Facility Owner and/or Operator has not complied with the requirements of Section B(7)(d) of the 1997 Permit or Section XI(C)(4) of the 2015 Permit to justify sampling a reduced number of discharge locations at the Facility.

Second, the CMAT Facility Owner and/or Operator fails to conduct the required storm water analysis. For example, the M&RP does not identify all the parameters that the CMAT Facility Owner and/or Operator is required to analyze samples for based on its SIC code, industrial activities, or the impairment of the water receiving the discharge. The CMAT Owner and/or Operator has also not analyzed its storm water samples for all parameters required by the Storm Water Permit. For example, SIC code 5093 requires analysis for iron, lead, aluminum, zinc, and COD, but the CMAT Facility Owner and/or Operator has never consistently analyzed its storm water discharges for all these pollutants. In addition, the CMAT Owner and/or Operator fails to analyze samples for other pollutants that are associated with its industrial activity and/or receiving water impairment, such as BOD and mercury.

Finally, the Storm Water Permit requires dischargers to conduct visual observations of storm water discharges, of authorized and unauthorized non-storm water discharges, and of BMPs. Based on information available to CSPA, including Annual Reports, the Facility SWPPPs, the Regional Board Inspection and NOV, the CMAT Facility Owner and/or Operator fails to consistently, and/or adequately, conduct the required observations and monitoring of BMPs. In fact, the 2015/2016 Annual Report documents the CMAT Owner and/or Operator's failure to conduct monthly observations of as required by the Storm Water Permit. *See* 2015 Permit, Section XI(A)(1).

Accordingly, the CMAT Facility Owner and/or Operator has failed and continues to fail to adequately develop, implement, and/or revise a M&RP, in violation of the Storm Water Permit. Every day the Facility operates with an inadequately developed and/or implemented M&RP, or with an improperly revised M&RP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The CMAT Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit M&RP requirements since at least May 3, 2012. These violations are ongoing, and CSPA will include additional violations when information becomes available. The CMAT Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 3, 2012.

**F. Failure to Comply with the Storm Water Permit's Reporting Requirements.**

Section B(14) of the 1997 Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. Section B(14) requires that the Annual Report include a summary of visual observations and sampling results, an evaluation of the visual observation and sampling results, the laboratory reports of sample analysis, the annual comprehensive site compliance evaluation report, an explanation of why a permittee did not implement any activities required, and other information specified in Section B(13). The 2015 Permit includes annual reporting requirements but changed the Annual Report due date to July 15. *See* 2015 Permit, Section XVI.

The CMAT Facility Owner and/or Operator has failed and continues to fail to submit Annual Reports that comply with the Storm Water Permit reporting requirements. First, the CMAT Owner and/or Operator failed to submit the 2014/2015 Annual Report by the July 1 deadline. In addition, when the Regional Board reviewed the 2014/2015 Annual Report, several deficiencies were documented and the Annual Report was deemed incomplete. The CMAT Owner and/or Operator also failed to timely submit the 2015/2016 Annual Report and received a notice from the Regional Board documenting this violation.<sup>14</sup>

Second, in the Annual Reports that CSPA reviewed, the CMAT Facility Owner and/or Operator certifies that: (1) a complete Annual Comprehensive Site Compliance Evaluation was conducted as required by the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, although sample results demonstrate that the Facility continuously discharges storm water with levels of pollutants that violate the Storm Water Permit, the CMAT Facility Owner and/or Operator certifies its compliance and the adequacy of the BMPs. In addition, the Facility's SWPPP does not include many elements required by the Storm Water Permit, and thus it is erroneous to certify that the SWPPP complies with the Storm Water Permit.

Finally, a permittee must report any noncompliance with the Storm Water Permit at the time that the Annual Report is submitted. The CMAT Facility Owner and/or Operator has not reported its non-compliance as required in violation of the Storm Water Permit.

Given that the CMAT Facility Owner and/or Operator has submitted incomplete and/or incorrect Annual Reports that fail to comply with the Storm Water Permit, the CMAT Facility Owner and/or Operator is in daily violation of the Storm Water Permit. Every day the CMAT Facility Owner and/or Operator conducts operations at the Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The CMAT Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least May 3, 2012. These violations are ongoing, and CSPA will

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<sup>14</sup> The only Annual Reports that were in the SMARTs database for the facility were the 2014/2015 and 2015/2016 Annual Reports.



include additional violations when information becomes available. The CMAT Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 3, 2012.

**G. Failure to Comply with Level 1 Exceedance Response Action Requirements.**

When the 2015 Permit became effective on July 1, 2015, all permittees were in “Baseline status” for all parameters listed in Table 2 of the 2015 Permit. *See* 2015 Permit, Section XII(B). A permittee’s Baseline status for any given parameter changes to “Level 1 status” if sampling results indicate an NAL exceedance for that same parameter. *See id.*, Section XII(C) (there are annual average NALs, and instantaneous maximum NALs). Level 1 status commences on July 1 following the Reporting Year during which the exceedance(s) occurred, and the discharger enters the Exceedance Response Action (“ERA”) process. *See id.* The ERA process requires the discharge to conduct a Level 1 ERA Evaluation, with the assistance of a Qualified Industrial Storm Water Practitioner (“QISP”), of the industrial pollutant sources at the facility that are or may be related to the NAL exceedance(s) by October 1 following commencement of Level 1 status. *See id.* at Section XII(C)(1)(a)-(b). The Level 1 ERA Evaluation must include the identification of the “corresponding BMPs in the SWPPP and any additional BMPs and SWPPP revisions necessary to *prevent* future NAL exceedances and to comply with the requirements of the General Permit.” *See id.* at Section XII(C)(1)(c) (emphasis added). “Although the evaluation may focus on the drainage areas where the NAL exceedance(s) occurred, all drainage areas shall be evaluated.” *Id.*

Based upon the Level 1 ERA Evaluation, the permittee is required to, as soon as practicable but no later than January 1 following commencement of Level 1 status, prepare a Level 1 ERA Report. *See id.*, Section XII(C)(2). The Level 1 Report must be prepared by a QISP and include a summary of the Level 1 ERA Evaluation and a detailed description of the SWPPP revisions and any additional BMPs for each parameter that exceeded an NAL. *See id.*, Section XII(C)(2)(a)(i)-(ii). The SWPPP revisions and additional BMP development and implementation must also be completed by January 1, and the Level 1 status discharger is required to submit via SMARTs the Level 1 ERA Report certifying the Level 1 ERA Evaluation has been conducted, and necessary SWPPP revisions and BMP implementation has been completed. *Id.* The certification also requires the QISP’s identification number, name, and contact information (telephone number, e-mail address) no later than January 1 following commencement of Level 1 status. *See id.* at Section XII(C)(2)(a)(iii). A permittee’s Level 1 status for a parameter will return to Baseline status if a Level 1 ERA Report has been completed, all identified additional BMPs have been implemented, and results from four (4) consecutive qualified storm events that were sampled subsequent to BMP implementation indicate no additional NAL exceedances for that parameter. *See id.* at Section XII(C)(2)(b). A permittee will enter a Level 2 status if there is an NAL exceedances of the same parameter when the discharger is in Level 1 status. *See id.* at Section D.

The CMAT Facility had NAL annual average exceedances for TSS, aluminum, COD, and iron during the 2015-2016 Reporting Year that resulted in Level 1 status for the Facility for these parameters. The CMAT Facility Owner and/or Operator submitted a Level 1 ERA Report

but has not complied with the requirements of Section XII(C) of the Storm Water Permit. As described below, the Level 1 ERA Report does not contain an adequate summary of the Level 1 ERA Evaluation, and despite the NAL exceedances, the Level 1 ERA Report does not identify SWPPP revisions, or BMP improvements necessary to prevent future NAL exceedances and come into compliance with the Storm Water Permit.

For example, the Level 1 ERA Evaluation is required to include an analysis of all pollutant sources that are or may be related to the NAL exceedance, an evaluation of all drainage areas, the identification of the corresponding SWPPP BMP that was developed for each NAL exceedance, the identification of necessary additional BMPs to prevent future NAL exceedances and comply with the Storm Water Permit, and the identification of SWPPP revisions necessary to achieve compliance with the Storm Water Permit. *See* 2015 Permit, Section XII(C)(1)(a)-(c). The Level 1 ERA Report does not include an adequate discussion of these elements. Specifically, the Level 1 ERA Report does not include any discussion of an evaluation of drainage area 2 (DA02) and fails to identify industrial activity that is or may be contributing to the NAL exceedance, such as crushing and grinding operations.

The CMAT Facility Level 1 ERA Report does not provide a detailed description of the SWPPP revisions including the specific citation and location of the revisions to the SWPPP, or identify BMPs that will *prevent* the NAL exceedances and achieve compliance with the Storm Water Permit. Rather, the CMAT Facility Owner and/or Operator submitted a vague and oversimplified ERA Level 1 Report that does not comply with the Storm Water Permit. The Level 1 ERA Report is also inadequate because although it notes that additional investigation and/or monitoring is necessary, and documents SWPPP deficiencies, neither the SWPPP nor M&RP were adequately revised to address these problems. Accordingly, among other reasons, the Level 1 ERA Report does not meet the requirements of Section XII(C) of the 2015 Permit.

Further, the CMAT Facility Owner and/or Operator has failed and continues to fail to conduct an adequate Level 1 status evaluation and has also failed to submit a Level 1 ERA Report that complies with the Storm Water Permit. As such, the CMAT Facility Owner and/or Operator is in daily violation of the Storm Water Permit. Every day the CMAT Facility Owner and/or Operator conducts operations at the Facility without conducting an adequate Level 1 status evaluation, and/or without submitting an adequate Level 1 ERA Report is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The CMAT Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's Level 1 status ERA evaluation requirement every day since October 1, 2016. The CMAT Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit for failing to submit an adequate Level 1 ERA Report every day since January 1, 2017. These violations are ongoing, and CSPA will include additional violations when information becomes available. The CMAT Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since May 3, 2012.

#### **IV. RELIEF SOUGHT FOR VIOLATIONS OF THE CLEAN WATER ACT**

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five (5) years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of \$37,500.00 per day per violation for all Clean Water Act violations after January 12, 2009 and \$51,570.00 per day per violation for violations that occurred after November 2, 2015.

In addition to civil penalties, CSPA will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), CSPA will seek to recover its litigation costs, including attorneys' and experts' fees.

#### **V. CONCLUSION**

Upon expiration of the 60-day notice period, CSPA will file a citizen suit under Section 505(a) of the Clean Water Act for the Facility Owner and/or Operator's violations of the Storm Water Permit. During the 60-day notice period, however, CSPA is willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions please contact CSPA's legal counsel as listed below.

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Sincerely,



Bill Jennings, Executive Director  
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## **EXHIBIT 1**

Date/Time of Sample	Sample Location	Parameter	Result	Units	EPA Benchmark	EPA Benchmark Exceedance	Water Quality Objective	Water Quality Objective Exceedance	Instantaneous NAL (2 or more)	Instantaneous NAL Exceedance	Annual Average NAL	CMAT Facility's Annual Average	Annual Average NAL Exceedance
2012/2013 Reporting Year													
11/30/12 8:00	No lab reports submitted on SMARTS	Aluminum, Total	5.07	mg/L	0.75	6.76	none	n/a	n/a	n/a	n/a	n/a	n/a
11/30/12 8:00	No lab reports submitted on SMARTS	Electrical Conductivity @ 25 Deg. C	112	umhos/cm	200		none	n/a	n/a	n/a	n/a	n/a	n/a
11/30/12 8:00	No lab reports submitted on SMARTS	Iron, Total	17.9	mg/L	1	17.9	none	n/a	n/a	n/a	n/a	n/a	n/a
11/30/12 8:00	No lab reports submitted on SMARTS	Oil and Grease	3	mg/L	15		none	n/a	n/a	n/a	n/a	n/a	n/a
11/30/12 8:00	No lab reports submitted on SMARTS	Total Suspended Solids (TSS)	520	mg/L	100	5.2	none	n/a	n/a	n/a	n/a	n/a	n/a
11/30/12 8:00	No lab reports submitted on SMARTS	pH	7.68	SU	6.0-9.0		6.5-8.5		n/a	n/a	n/a	n/a	n/a
11/30/12 8:20	No lab reports submitted on SMARTS	Aluminum, Total	5.18	mg/L	0.75	6.91	none	n/a	n/a	n/a	n/a	n/a	n/a
11/30/12 8:20	No lab reports submitted on SMARTS	Electrical Conductivity @ 25 Deg. C	52.8	umhos/cm	200		none	n/a	n/a	n/a	n/a	n/a	n/a
11/30/12 8:20	No lab reports submitted on SMARTS	Iron, Total	19.8	mg/L	1	19.8	none	n/a	n/a	n/a	n/a	n/a	n/a
11/30/12 8:20	No lab reports submitted on SMARTS	Oil and Grease	3	mg/L	15		none	n/a	n/a	n/a	n/a	n/a	n/a
11/30/12 8:20	No lab reports submitted on SMARTS	Total Suspended Solids (TSS)	93	mg/L	100		none	n/a	n/a	n/a	n/a	n/a	n/a
11/30/12 8:20	No lab reports submitted on SMARTS	pH	6.85	SU	6.0-9.0		6.5-8.5		n/a	n/a	n/a	n/a	n/a
4/4/13 6:30	No lab reports submitted on SMARTS	Aluminum, Total	2.11	mg/L	0.75	2.81	none	n/a	n/a	n/a	n/a	n/a	n/a
4/4/13 6:30	No lab reports submitted on SMARTS	Aluminum, Total	1.35	mg/L	0.75	1.8	none	n/a	n/a	n/a	n/a	n/a	n/a
4/4/13 6:30	No lab reports submitted on SMARTS	Electrical Conductivity @ 25 Deg. C	82.8	umhos/cm	200		none	n/a	n/a	n/a	n/a	n/a	n/a
4/4/13 6:30	No lab reports submitted on SMARTS	Electrical Conductivity @ 25 Deg. C	178	umhos/cm	200		none	n/a	n/a	n/a	n/a	n/a	n/a
4/4/13 6:30	No lab reports submitted on SMARTS	Iron, Total	1.79	mg/L	1	1.79	none	n/a	n/a	n/a	n/a	n/a	n/a
4/4/13 6:30	No lab reports submitted on SMARTS	Iron, Total	1.11	mg/L	1	1.11	none	n/a	n/a	n/a	n/a	n/a	n/a
4/4/13 6:30	No lab reports submitted on SMARTS	Oil and Grease	3	mg/L	15		none	n/a	n/a	n/a	n/a	n/a	n/a
4/4/13 6:30	No lab reports submitted on SMARTS	Oil and Grease	3	mg/L	15		none	n/a	n/a	n/a	n/a	n/a	n/a

4/4/13 6:30	No lab reports submitted on SMARTS	Total Suspended Solids (TSS)	150	mg/L	100	1.50	none	n/a	n/a	n/a	n/a	n/a	n/a
4/4/13 6:30	No lab reports submitted on SMARTS	Total Suspended Solids (TSS)	91	mg/L	100		none	n/a	n/a	n/a	n/a	n/a	n/a
4/4/13 6:30	No lab reports submitted on SMARTS	pH	8.94	SU	6.0-9.0		6.5-8.5		n/a	n/a	n/a	n/a	n/a
4/4/13 6:30	No lab reports submitted on SMARTS	pH	7.89	SU	6.0-9.0		6.5-8.5		n/a	n/a	n/a	n/a	n/a
2013/2014 Reporting Year													
2/6/14 7:00	No lab reports submitted on SMARTS	Aluminum, Total	4.23	mg/L	0.75	5.64	none	n/a	n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Aluminum, Total	1.79	mg/L	0.75	2.39	none	n/a	n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Chemical Oxygen Demand (COD)	41	mg/L	120		none	n/a	n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Chemical Oxygen Demand (COD)	83	mg/L	120		none	n/a	n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Copper, Total	0.01	mg/L	0.009	1.11	0.0093	1.08	n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Copper, Total	0.0192	mg/L	0.009	2.13	0.0093	2.06	n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Electrical Conductivity @ 25 Deg. C	352	umhos/cm	200	1.76	none	n/a	n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Electrical Conductivity @ 25 Deg. C	141	umhos/cm	200		none	n/a	n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Iron, Total	2.45	mg/L	1	2.45	none	n/a	n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Iron, Total	5.67	mg/L	1	5.67	none	n/a	n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Lead, Total	0.0104	mg/L	0.045		0.045		n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Lead, Total	0.00519	mg/L	0.045		0.047		n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Oil and Grease	3	mg/L	15		none	n/a	n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Oil and Grease	3	mg/L	15		none	n/a	n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Total Suspended Solids (TSS)	68	mg/L	100		none	n/a	n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Total Suspended Solids (TSS)	250	mg/L	100	2.50	none	n/a	n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Zinc, Total	0.0403	mg/L	0.08		0.083		n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	Zinc, Total	0.122	mg/L	0.08	1.53	0.083	1.47	n/a	n/a	n/a	n/a	n/a

2/6/14 7:00	No lab reports submitted on SMARTS	pH	8.1	SU	6.0-9.0		6.5-8.5		n/a	n/a	n/a	n/a	n/a
2/6/14 7:00	No lab reports submitted on SMARTS	pH	7.73	SU	6.0-9.0		6.5-8.5		n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Aluminum, Total	0.05	mg/L	0.75		none	n/a	n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Aluminum, Total	0.05	mg/L	0.75		none	n/a	n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Chemical Oxygen Demand (COD)	68	mg/L	120		none	n/a	n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Chemical Oxygen Demand (COD)	74	mg/L	120		none	n/a	n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Copper, Total	0.01	mg/L	0.009	1.11	0.0093	1.08	n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Copper, Total	0.01	mg/L	0.009	1.11	0.0093	1.08	n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Electrical Conductivity @ 25 Deg. C	208	umhos/cm	200	1.04	none	n/a	n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Electrical Conductivity @ 25 Deg. C	101	umhos/cm	200		none	n/a	n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Iron, Total	0.0417	mg/L	1		none	n/a	n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Iron, Total	0.01	mg/L	1		none	n/a	n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Lead, Total	0.005	mg/L	0.045		0.047		n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Lead, Total	0.011	mg/L	0.045		0.047		n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Oil and Grease	3	mg/L	15		none	n/a	n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Oil and Grease	3	mg/L	15		none	n/a	n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Total Suspended Solids (TSS)	31	mg/L	100		none	n/a	n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Total Suspended Solids (TSS)	170	mg/L	100	1.70	none	n/a	n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Zinc, Total	0.0138	mg/L	0.08		0.083		n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	Zinc, Total	0.01	mg/L	0.08		0.083		n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	pH	7.01	SU	6.0-9.0		6.5-8.5		n/a	n/a	n/a	n/a	n/a
3/3/14 7:00	No lab reports submitted on SMARTS	pH	7.29	SU	6.0-9.0		6.5-8.5		n/a	n/a	n/a	n/a	n/a

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11/13/14 7:40	#1 East DI	Aluminum, Total	1.68	mg/L	0.75	2.24	none	n/a	n/a	n/a	n/a	n/a	n/a
11/13/14 7:40	#1 East DI	Copper, Total	DLR .010	mg/L	0.009		0.0093		n/a	n/a	n/a	n/a	n/a
11/13/14 7:40	#1 East DI	Iron, Total	0.599	mg/L	1		none	n/a	n/a	n/a	n/a	n/a	n/a
11/13/14 7:40	#1 East DI	Lead, Total	0.0234	mg/L	0.045		0.047		n/a	n/a	n/a	n/a	n/a
11/13/14 7:40	#1 East DI	Zinc, Total	ND	mg/L	0.08		0.083		n/a	n/a	n/a	n/a	n/a
11/13/14 7:40	#1 East DI	Chemical Oxygen Demand (COD)	64	mg/L	120		none	n/a	n/a	n/a	n/a	n/a	n/a
11/13/14 7:40	#1 East DI	Specific Conductance	121	umhos/cm	120	1.01	none	n/a	n/a	n/a	n/a	n/a	n/a
11/13/14 7:40	#1 East DI	Oil and Grease	ND	mg/L	15		none	n/a	n/a	n/a	n/a	n/a	n/a
11/13/14 7:40	#1 East DI	Total Suspended Solids (TSS)	57	mg/L	100		none	n/a	n/a	n/a	n/a	n/a	n/a
11/13/14 7:40	#1 East DI	pH	7.65	SU	6.0-9.0		6.5-8.5		n/a	n/a	n/a	n/a	n/a
11/13/14 7:45	#2 West DI	Aluminum, Total	0.392	mg/L	0.75		none	n/a	n/a	n/a	n/a	n/a	n/a
11/13/14 7:45	#2 West DI	Copper, Total	ND	mg/L	0.009		0.0093		n/a	n/a	n/a	n/a	n/a
11/13/14 7:45	#2 West DI	Iron, Total	0.204	mg/L	1		none	n/a	n/a	n/a	n/a	n/a	n/a
11/13/14 7:45	#2 West DI	Lead, Total	0.0189	mg/L	0.045		0.047		n/a	n/a	n/a	n/a	n/a
11/13/14 7:45	#2 West DI	Zinc, Total	ND	mg/L	0.08		0.083		n/a	n/a	n/a	n/a	n/a
11/13/14 7:45	#2 West DI	Chemical Oxygen Demand (COD)	68	mg/L	120		none	n/a	n/a	n/a	n/a	n/a	n/a
11/13/14 7:45	#2 West DI	Specific Conductance	197	umhos/cm	200		none	n/a	n/a	n/a	n/a	n/a	n/a
11/13/14 7:45	#2 West DI	Oil and Grease	ND	mg/L	15		none	n/a	n/a	n/a	n/a	n/a	n/a
11/13/14 7:45	#2 West DI	Total Suspended Solids (TSS)	84	mg/L	100		none	n/a	n/a	n/a	n/a	n/a	n/a
11/13/14 7:45	#2 West DI	pH	8.48	SU	6.0-9.0		6.5-8.5		n/a	n/a	n/a	n/a	n/a
2015/2016 Reporting Year													
11/9/15 11:00	#1 East DI	Aluminum, Total	5.86	mg/L	0.75	7.81	none	n/a	none	n/a	0.75	1.74	2.33
11/9/15 11:00	#1 East DI	Copper, Total	0.0185	mg/L	0.009	2.06	0.0093	1.99	none	n/a	0.0332	0.01	



11/9/15 11:00	#1 East DI	Electrical Conductivity @ 25 Deg. C	192	umhos/cm	200		none	n/a	none	n/a	none	n/a	n/a
11/9/15 11:00	#1 East DI	Chemical Oxygen Demand (COD)	98	mg/L	120		none	n/a	none	n/a	120	194.13	1.62
11/9/15 11:00	#1 East DI	Iron, Total	7.33	mg/L	1	7.33	none	n/a	none	n/a	1	2.27	2.27
11/9/15 11:00	#1 East DI	Lead, Total	0.00879	mg/L	0.045		0.047		none	n/a	0.262	0.00	
11/9/15 11:00	#1 East DI	Oil and Grease	0	mg/L	15		none	n/a	25	n/a	15	0	
11/9/15 11:00	#1 East DI	Total Suspended Solids (TSS)	62	mg/L	100		none	n/a	400	n/a	100	248.14	2.48
11/9/15 11:00	#1 East DI	Zinc, Total	0.141	mg/L	0.08	1.76	0.083	1.70	none	n/a	0.26	0.06	
11/9/15 11:00	#1 East DI	pH	7.88	SU	6.0-9.0		6.5-8.5		6.0-9.0		none	n/a	n/a
11/9/15 11:05	#2 West DI	Aluminum, Total	0.379	mg/L	0.75		none	n/a	none	n/a	see above	see above	see above
11/9/15 11:05	#2 West DI	Copper, Total	0.0145	mg/L	0.009	1.61	0.0093	1.56	none	n/a	see above	see above	see above
11/9/15 11:05	#2 West DI	Electrical Conductivity @ 25 Deg. C	58	umhos/cm	200		none	n/a	none	n/a	see above	see above	see above
11/9/15 11:05	#2 West DI	Chemical Oxygen Demand (COD)	43	mg/L	120		none	n/a	none	n/a	see above	see above	see above
11/9/15 11:05	#2 West DI	Iron, Total	0.219	mg/L	1		none	n/a	none	n/a	see above	see above	see above
11/9/15 11:05	#2 West DI	Lead, Total	0	mg/L	0.045		0.047		none	n/a	see above	see above	see above
11/9/15 11:05	#2 West DI	Oil and Grease	0	mg/L	15		none	n/a	25		see above	see above	see above
11/9/15 11:05	#2 West DI	Total Suspended Solids (TSS)	1000	mg/L	100	10.00	none	n/a	400	2.50	see above	see above	see above
11/9/15 11:05	#2 West DI	Zinc, Total	0.044	mg/L	0.08		0.083		none	n/a	see above	see above	see above
11/9/15 11:05	#2 West DI	pH	6.95	SU	6.0-9.0		6.5-8.5		6.0-9.0		see above	see above	see above
12/21/15 13:58	#1 East DI	Aluminum, Total	0.341	mg/L	0.75		none	n/a	none	n/a	see above	see above	see above
12/21/15 13:58	#1 East DI	Chemical Oxygen Demand (COD)	250	mg/L	120	2.08	none	n/a	none	n/a	see above	see above	see above
12/21/15 13:58	#1 East DI	Copper, Total	0.0378	mg/L	0.009	4.20	0.0093	4.06	none	n/a	see above	see above	see above
12/21/15 13:58	#1 East DI	Electrical Conductivity @ 25 Deg. C	59	umhos/cm	200		none	n/a	none	n/a	see above	see above	see above
12/21/15 13:58	#1 East DI	Iron, Total	0.198	mg/L	1		none	n/a	none	n/a	see above	see above	see above

12/21/15 13:58	#1 East DI	Lead, Total	0	mg/L	0.045		0.047		none	n/a	see above	see above	see above
12/21/15 13:58	#1 East DI	Oil and Grease	0	mg/L	15		none	n/a	25		see above	see above	see above
12/21/15 13:58	#1 East DI	Total Suspended Solids (TSS)	28	mg/L	100		none	n/a	400		see above	see above	see above
12/21/15 13:58	#1 East DI	Zinc, Total	0.106	mg/L	0.08	1.33	0.083	1.28	none	n/a	see above	see above	see above
12/21/15 13:58	#1 East DI	pH	6.62	SU	6.0-9.0		6.5-8.5		6.0-9.0		see above	see above	see above
12/21/15 14:02	#2 West DI	Aluminum, Total	0.465	mg/L	0.75		none	n/a	none	n/a	see above	see above	see above
12/21/15 14:02	#2 West DI	Copper, Total	0	mg/L	0.009		0.0093		none	n/a	see above	see above	see above
12/21/15 14:02	#2 West DI	Chemical Oxygen Demand (COD)	276	mg/L	120	2.30	none	n/a	none	n/a	see above	see above	see above
12/21/15 14:02	#2 West DI	Electrical Conductivity @ 25 Deg. C	283	umhos/cm	200	1.42	none	n/a	none	n/a	see above	see above	see above
12/21/15 14:02	#2 West DI	Iron, Total	0.559	mg/L	1		none	n/a	none	n/a	see above	see above	see above
12/21/15 14:02	#2 West DI	Lead, Total	0	mg/L	0.045		0.047		none	n/a	see above	see above	see above
12/21/15 14:02	#2 West DI	Oil and Grease	0	mg/L	15		none	n/a	25		see above	see above	see above
12/21/15 14:02	#2 West DI	Total Suspended Solids (TSS)	300	mg/L	100	3.00	none	n/a	400		see above	see above	see above
12/21/15 14:02	#2 West DI	Zinc, Total	0.0288	mg/L	0.08		0.083		none	n/a	see above	see above	see above
12/21/15 14:02	#2 West DI	pH	7.76	SU	6.0-9.0		6.5-8.5		6.0-9.0		see above	see above	see above
1/22/2016 15:50:00 PM	#1 East DI	Aluminum, Total	3.38	mg/L	0.75	4.51	none	n/a	none	n/a	see above	see above	see above
1/22/2016 15:50:00 PM	#1 East DI	Chemical Oxygen Demand (COD)	300	mg/L	120	2.50	none	n/a	none	n/a	see above	see above	see above
1/22/2016 15:50:00 PM	#1 East DI	Copper, Total	0.0144	mg/L	0.009	1.60	0.0093	1.55	none	n/a	see above	see above	see above
1/22/2016 15:50:00 PM	#1 East DI	Electrical Conductivity @ 25 Deg. C	376	umhos/cm	200	1.88	none	n/a	none	n/a	see above	see above	see above
1/22/2016 15:50:00 PM	#1 East DI	Iron, Total	4.86	mg/L	1	4.86	none	n/a	none	n/a	see above	see above	see above
1/22/2016 15:50:00 PM	#1 East DI	Lead, Total	0.00556	mg/L	0.045		0.047		none	n/a	see above	see above	see above
1/22/2016 15:50:00 PM	#1 East DI	Oil and Grease	0	mg/L	15		none	n/a	25		see above	see above	see above
1/22/2016 15:50:00 PM	#1 East DI	Total Suspended Solids (TSS)	320	mg/L	100	3.20	none	n/a	400		see above	see above	see above

1/22/2016 15:50:00 PM	#1 East DI	Zinc, Total	0.0524	mg/L	0.08		0.083		none	n/a	see above	see above	see above
1/22/2016 15:50:00 PM	#1 East DI	pH	7.86	SU	6.0-9.0		6.5-8.5		6.0-9.0		see above	see above	see above
1/22/2016 16:01:00 PM	#2 West DI	Aluminum, Total	0.057	mg/L	0.75		none	n/a	none	n/a	see above	see above	see above
1/22/2016 16:01:00 PM	#2 West DI	Copper, Total	0	mg/L	0.009		0.0093		none	n/a	see above	see above	see above
1/22/2016 16:01:00 PM	#2 West DI	Electrical Conductivity @ 25 Deg. C	51	umhos/cm	200		none	n/a	none	n/a	see above	see above	see above
1/22/2016 16:01:00 PM	#2 West DI	Chemical Oxygen Demand (COD)	205	mg/L	120	1.71	none	n/a	none	n/a	see above	see above	see above
1/22/2016 16:01:00 PM	#2 West DI	Iron, Total	0.314	mg/L	1		none	n/a	none	n/a	see above	see above	see above
1/22/2016 16:01:00 PM	#2 West DI	Lead, Total	0	mg/L	0.045		0.047		none	n/a	see above	see above	see above
1/22/2016 16:01:00 PM	#2 West DI	Oil and Grease	0	mg/L	15		none	n/a	25		see above	see above	see above
1/22/2016 16:01:00 PM	#2 West DI	Total Suspended Solids (TSS)	16	mg/L	100		none	n/a	400		see above	see above	see above
1/22/2016 16:01:00 PM	#2 West DI	Zinc, Total	0.0251	mg/L	0.08		0.083		none	n/a	see above	see above	see above
1/22/2016 16:01:00 PM	#2 West DI	pH	6.47	SU	6.0-9.0		6.5-8.5	0.03	6.0-9.0		see above	see above	see above
3/7/2016 13:15:00 PM	#1 East DI	Aluminum, Total	3.47	mg/L	0.75	4.63	none	n/a	none	n/a	see above	see above	see above
3/7/2016 13:15:00 PM	#1 East DI	Copper, Total	0.0329	mg/L	0.009	3.66	0.0093	3.54	none	n/a	see above	see above	see above
3/7/2016 13:15:00 PM	#1 East DI	Iron, Total	4.7	mg/L	1	4.70	none	n/a	none	n/a	see above	see above	see above
3/7/2016 13:15:00 PM	#1 East DI	Chemical Oxygen Demand (COD)	235	mg/L	120	1.96	none	n/a	none	n/a	see above	see above	see above
3/7/2016 13:15:00 PM	#1 East DI	Lead, Total	0	mg/L	0.045		0.047		none	n/a	see above	see above	see above
3/7/2016 13:15:00 PM	#1 East DI	Oil and Grease	0	mg/L	15		none	n/a	25		see above	see above	see above
3/7/2016 13:15:00 PM	#1 East DI	Total Suspended Solids (TSS)	11	mg/L	100		none	n/a	400		see above	see above	see above
3/7/2016 13:15:00 PM	#1 East DI	Zinc, Total	0.0921	mg/L	0.08	1.15	0.083	1.11	none	n/a	see above	see above	see above
3/7/2016 13:15:00 PM	#1 East DI	pH	8.17	SU	6.0-9.0		6.5-8.5		6.0-9.0		see above	see above	see above
3/7/2016 13:20:00 PM	#2 West DI	Aluminum, Total	0	mg/L	0.75		none	n/a	none	n/a	see above	see above	see above
3/7/2016 13:20:00 PM	#2 West DI	Copper, Total	0	mg/L	0.009		0.0093		none	n/a	see above	see above	see above

3/7/2016 13:20:00 PM	#2 West DI	Iron, Total	0	mg/L	1		none	n/a	none	n/a	see above	see above	see above
3/7/2016 13:20:00 PM	#2 West DI	Chemical Oxygen Demand (COD)	146	mg/L	120	1.22	none	n/a	none	n/a	see above	see above	see above
3/7/2016 13:20:00 PM	#2 West DI	Lead, Total	0	mg/L	0.045		0.047		none	n/a	see above	see above	see above
3/7/2016 13:20:00 PM	#2 West DI	Oil and Grease	0	mg/L	15		none	n/a	25		see above	see above	see above
3/7/2016 13:20:00 PM	#2 West DI	Total Suspended Solids (TSS)	22	mg/L	100		none	n/a	400		see above	see above	see above
3/7/2016 13:20:00 PM	#2 West DI	Zinc, Total	0.0291	mg/L	0.08		0.083		none	n/a	see above	see above	see above
3/7/2016 13:20:00 PM	#2 West DI	pH	8.5	SU	6.0-9.0		6.5-8.5		6.0-9.0		see above	see above	see above
					<b>Total Exceedances</b>	<b>50</b>		<b>15</b>		<b>1</b>			<b>4</b>
<b>2016/2017 Reporting Year</b>													
		No Sample Results Reported in SMARTs Database											

**EXHIBIT 2**

Date / Time	<i>PPT INC</i>
	INCHES
8/1/12	--
10/22/12	0.17
11/9/12	0.2
11/17/12	0.36
11/18/12	0.21
11/21/12	0.11
11/28/12	0.16
11/30/12	1.39
12/2/12	1.43
12/5/12	0.59
12/12/12	0.14
12/16/12	0.1
12/17/12	0.2
12/21/12	0.26
12/22/12	0.59
12/23/12	0.49
12/24/12	0.14
12/25/12	0.15
12/26/12	0.17
1/6/13	1.18
2/19/13	0.2
3/20/13	0.14
3/31/13	0.38
4/1/13	0.26
4/4/13	0.39
9/21/13	0.27
11/20/13	1.05
12/7/13	0.34
1/30/14	0.11
1/31/14	0.1
2/6/14	0.3
2/7/14	0.12
2/8/14	0.44
2/9/14	0.18
2/27/14	0.15
2/28/14	1.42
3/4/14	0.25
3/26/14	0.72
3/29/14	0.16
3/30/14	0.25
3/31/14	0.13



4/2/14	0.33
4/25/14	0.41
9/25/14	0.59
10/31/14	0.24
11/1/14	0.26
11/13/14	0.4
11/22/14	0.14
11/30/14	0.43
12/2/14	1.1
12/3/14	0.17
12/11/14	1.04
12/12/14	1.34
12/15/14	0.92
12/17/14	0.57
12/18/14	0.11
12/19/14	0.23
12/20/14	0.4
2/7/15	0.72
2/8/15	0.63
3/11/15	0.13
4/7/15	0.58
4/25/15	0.54
10/1/15	0.2
11/2/15	1.06
11/9/15	0.34
11/15/15	0.15
11/24/15	0.25
12/3/15	0.16
12/10/15	0.24
12/11/15	0.3
12/13/15	0.35
12/19/15	0.39
12/21/15	0.17
12/22/15	0.44
12/24/15	0.26
1/4/16	0.22
1/5/16	0.93
1/6/16	0.24
1/15/16	0.11
1/16/16	0.26
1/18/16	1.26
1/19/16	0.95
1/23/16	0.35

1/30/16	0.37
2/18/16	0.39
3/5/16	0.63
3/6/16	0.8
3/7/16	0.91
3/11/16	0.35
3/13/16	0.45
3/14/16	0.26
4/9/16	0.87
4/10/16	0.91
4/22/16	0.41
4/27/16	0.56
5/6/16	0.31
10/15/16	0.39
10/16/16	0.45
10/27/16	0.16
10/28/16	0.88
10/30/16	0.26
11/20/16	0.58
11/21/16	0.27
11/27/16	0.51
12/8/16	0.27
12/10/16	0.28
12/15/16	0.3
12/16/16	0.51
12/23/16	0.54
1/3/17	0.26
1/4/17	0.59
1/5/17	0.24
1/7/17	0.59
1/8/17	0.74
1/9/17	0.17
1/10/17	0.8
1/11/17	0.51
1/18/17	0.62
1/19/17	0.35
1/20/17	0.67
1/22/17	0.4
1/23/17	0.22
2/2/17	0.15
2/3/17	0.23
2/6/17	0.33
2/7/17	0.7

2/8/17	0.41
2/9/17	0.1
2/10/17	1.08
2/20/17	1.22
2/21/17	0.41
2/22/17	0.27
3/5/17	0.24
3/21/17	1.06
3/22/17	0.61
3/24/17	0.14